

REMARKS

Upon entry of the above amendment, claims 1-11 and 14-15 will be pending in the captioned application. The amendments do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, entry of the amendment is respectfully requested.

1. Rejection of claim 11 under 35 U.S.C. §112, 2nd paragraph

The Official Action states that claim 11 is rejected under 35 U.S.C. §112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Official Action states, in relevant part, the following:

Claim 11 is rejected because the claims are self-conflicting. Pharmaceutical composition by definition must be effective yet non-toxic.
It is recommended that "therapeutically effective amount" be incorporated in the claim.

RESPONSE

Applicant respectfully traverses this rejection. Applicant respectfully submits that the phrase "pharmaceutical composition" is not self-conflicting because the absence of the phrase "therapeutically effective amount" cannot generate a conflict.

The Examiner has not supported her position with any U.S.

case law or MPEP section which requires such wording in a pharmaceutical composition claim. Further, applicant submits that many patents have issued with pharmaceutical composition claims that do not contain this language which has been recommended by the Examiner. In this regard, applicant respectfully directs the Examiner's attention to the following patents:

1. US Patent No. 6,818,642
2. US Patent No. 6,924,305
3. US Patent No. 6,936,622
4. US Patent No. 6,962,941
5. US Patent No. 7,022,696 and
6. US Patent No. 7,060,716.

There are, of course, many more patents than those listed which contain pharmaceutical composition claims that do not contain the phrase "therapeutically effective amount". The patent numbers are simply provided for the Examiner's convenience.

Accordingly, since claim 11 is clear and definite in its present form, applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claim 11.

2. Rejection of Claims 14-15 under 35 U.S.C. §112, 1st paragraph

The Official Action states that claims 14-15 are rejected under 35 U.S.C. §112, 1st paragraph for lack of enablement. In particular, the Official Action states that "it is not seen where the claims 14-15, for treating inflammatory diseases, have been enabled by the instant specification."

RESPONSE

Applicant respectfully traverses this rejection of claims 14-15. Claims 14-15 are clearly enabled by the instant specification because applicant has demonstrated a nexus between 1) the effectiveness of the compounds of formula I to inhibit the inducible nitric oxide synthase (iNOS) and 2) the common knowledge in the art that iNOS inhibition is useful in treating acute and chronic inflammatory diseases.

First, applicant respectfully submits that claim 14 is directed to the treatment of an acute inflammatory disease and claim 15 is directed to the treatment of a chronic inflammatory disease of peripheral organs and the CNS. The Examiner stated on page 4 of the Official Action that claims 14-15 are directed to "...a method for treatment an acute inflammatory disease and

the central nervous system (CNS) using a compound of formula I according to claim 1" which is not entirely accurate.

Regarding the substance of the rejection, applicant respectfully points out the following to the Examiner. The instant specification contains data in Table A on page 54 which clearly demonstrates that the presently claimed and allowable compounds inhibit inducible nitric oxide synthase (iNOS). Further, it is well known in the art that the inhibition of iNOS and treatment of acute and chronic inflammatory diseases, as presently claimed, are related. In this regard, the specification contains numerous references to publications demonstrating the relationship between inhibition of iNOS and the treatment of acute and chronic inflammatory diseases. See pages 49-50. In addition to these references explicitly outlined in the present specification, applicant has submitted herewith an Information Disclosure Statement citing sixteen (16) references, at least seven of which demonstrate the relationship between iNOS inhibition and treatment of acute and chronic inflammatory diseases. The relevant portions of seven of the attached IDS references are briefly discussed herein below.

Hansel et al. describe that inhibition of iNOS has therapeutic potential for asthma in addition to a range of

inflammatory diseases involving other organ systems. See page 1300, last sentence in right column.

In Cuzzocrea et al., a study is described showing that a potent and selective inhibitor of iNOS activity attenuates the degree of chronic inflammation and tissue damage associated with collagen-induced arthritis in mice. See abstract, last paragraph, 1st sentence.

Ohtsuka et al. state that excessive NO production is closely related to inflammatory diseases and suppression of excess NO formation in participating cells may be helpful in improving disease status. See abstract, left column. In this respect, it may be noted that iNOS is an enzyme that generates NO from arginine. Accordingly, inhibition of the iNOS, as done by the compounds of the present invention, reduces the NO level in the participating cells, thus, improving inflammatory diseases.

Tinker et al. describe compounds which are iNOS inhibitors and which show efficacy in acute and chronic animal models of inflammatory diseases. See abstract.

According to Kankuri et al., treatment with a selective iNOS inhibitor reduced formation of edema, neutrophil infiltration and macroscopic inflammation damage in

experimentally induced acute colitis in the rat. See abstract.

Liu et al. state that recent studies have shown that the selective inhibitors of iNOS can play an important role inter alia in chronic inflammation. See page 1052, right column, first paragraph, last sentence.

Salvemini et al. conclude that selective inhibitors of iNOS are clearly anti-inflammatory agents. See last paragraph of abstract.

Accordingly, a person of ordinary skill in the art would be enabled by the instant specification, combined with the common knowledge in the art, to practice the presently claimed invention.

If the enablement rejection of the Examiner is upheld, it would mean that an inventor of an innovative new drug would have to wait to file her patent application until human clinical trials were performed. Such a conclusion is obviously incorrect. A reasonable correlation between a compound's activity and its asserted use, as demonstrated by applicant with the data present in the instant specification, and the literature references filed herewith, is clearly enough to properly demonstrate enablement of the presently claimed methods.

Accordingly, claims 14-15 comply with the requirements of 35 U.S.C. §112, 1st paragraph. As such, applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claim 14-15.

3. Objection to claim 10

Claim 10 is objected to because the claim contains numbers to separate the compounds. In response to the Examiner's objection, applicant has amended claim 10 as recommended by the Examiner. In particular, the numbers have been cancelled and have been replaced by letters. Also, a comma has been inserted between each chemical species. As such, the way the compounds are claimed cannot be misinterpreted as individual claims. Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the objection to claim 10.

4. Allowable Subject Matter

The Examiner has indicated that claims 1-9 are free of the prior art and are allowable.

Applicant thanks the Examiner for this indication of allowable subject matter and respectfully submits that all

outstanding rejections have been overcome with the amendments and arguments submitted herewith.

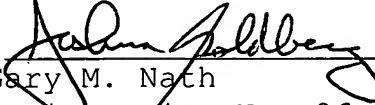
CONCLUSION

In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 11 and 14-15, and to allow all of the claims pending in this application to proceed to grant.

If the Examiner has any questions or wishes to discuss this matter, she is welcomed to telephone the undersigned attorney.

Respectfully submitted,

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